

Message Text

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FM AMEMBASSY MEXICO

TO SECSTATE WASHDC 3225

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FOR GISE FROM GAITHER

E.O. 11652: N/A

TAGS: CASC, MX (LOCKE, FRANK LEE)

SUBJECT: CASE REVIEW - FRANK LEE LOCKE

1. RE APPOINTMENT OF PUBLIC DEFENDER, UNDER MEXICAN LEGAL SYSTEM, THE RIGHT TO A PUBLIC DEFENDER EXISTS FROM THE INITIAL PROCEEDINGS UP TO AND INCLUDING AN APPEAL FROM THE COURT OF THE FIRST INSTANCE. THERE IS NO RIGHT PER SE FOR AN APPEAL TO THE SUPREME COURT. AN ATTORNEY MAY PROCESS SUCH AN APPEAL BUT DOES SO ON A VOLUNTARY BASIS.

2. THE ABOVE IS BASED ON THE PROVISIONS OF ARTICLE 20, PARA IX OF THE MEXICAN CONSTITUTION WHEREIN THE RIGHT TO A PUBLIC DEFENDER IS ESTABLISHED THROUGH THE INITIAL TRIAL. BY PRACTICE, THIS RIGHT APPEARS TO HAVE BEEN EXTENDED TO THE FIRST APPELATE LEVEL BUT NOT TO SUPREME COURT APPEALS. I HAVE CONFIRMED THIS PRACTICE WITH A JUDGE OF THE FIRST INSTANCE.

3. RE DIFFERING SENTENCES BETWEEN LOCKE AND THE THREE OTHER DEFENDANTS, EMBASSY FILES CONTAIN AN EXTRACT OF AN APPELATE DECISION WHICH INDICATES LOWER COURT'S DECISION WAS UPHELD. EXTRACT ALSO INDICATES LOCKE CONVICTION WAS BASED UPON ACQUISITION, POSSESSION AND TRANSPORTATION OF DRUGS IN THE FORM OF LSD AND UPON POSSESSION AND TRANSPORTATION OF THE DRUG OF MARIJUANA. THE SAME EXTRACT SHOWS THE OTHER DEFENDANTS AS UNCLASSIFIED

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HAVING BEEN CONVICTED OF POSSESSION AND TRANSPORTATION OF

MARIJUANA. ASSUMING THIS EXTRACT OF FEBRUARY 24, 1975 TO BE CORRECT, THE ADDITIONAL CONVICTION ON LSD APPLICABLE ONLY TO LOCKE WOULD EXPLAIN THE DIFFERENCE IN SENTENCES.

4. ALSO PERTINENT ON CONVICTION POINT IS A MEMO TO FILE FROM THEN CG PETERSON OF A MEETING BETWEEN PETERSON AND LOCKE'S THEN ATTORNEY, LIC. JOSE LORIA GUTIERREZ, TO DISCUSS THE SENTENCING. THE MEMO INDICATES THAT, WHILE LORIA WAS SURPRISED WITH THE FACT THAT LOCKE WAS CHARGED WITH BOTH POSSESSION AND TRANSPORTATION, "LOCKE MOST LIKELY WOULD HAVE RECEIVED NINE YEARS ON A STRAIGHT POSSESSION CHARGE AS THAT CHARGE CARRIES A SENTENCE OF THREE TO TWELVE YEARS." THE MEMO NOTES, "THE ATTORNEY ASSURED ME THAT THERE WAS NO INJUSTICE IN THE CASE OF LOCKE." IT IS NOTEWORTHY THAT THE MEMO DOES NOT REFLECT THE FACT THAT LOCKE WAS SENTENCED FOR POSSESSION AND TRANSPORTATION OF TWO DIFFERENT DRUGS.
CALDERHEAD

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